IN

LAW, RELIGION,

And other Circumſtances briefly Examined, and Preſented to the CONSCIENCE.

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The Case of our Affaires in Law, Religion, and other Circumstances briefly examined, &c.

THough the Bonds of all Dutie are originally and principally founded in God, and tied by Religion; yet seeing all civill Duties relate to the particularitie of the humane Ordinance, and according to the nature of it, is with more or lesse importance to be exacted. What Subject soever would finde the true rule and bond of his obedience, must in the first place look what the State is wherein he lives, and in whom the Soveraignitie is to which his obedience and faith is inevitably bound.

Our State of *England* (even by the declaration of our Lawes) is a Kingdom, an Empire, a well regulated Monarchie; the Head thereof a Supreme Head, a Soveraigne, a King whose Crown is an Imperiall Crown, the Kingdom *His* Kingdom, *His* Realme, *His* Dominion, the People *His* People, the Subject *His* Subject, not onely as they are single men, but even when being in Parliament assembled, they make the Bodie Representative of the whole Kingdom considered apart without the King, so that the very Parliament it selfe is also by our Lawes called *His* Parliament: the King alone by Law hath power to call together in Parliament that Representative Bodie, and at His pleasure to dissolve it; He personally hath Homage and Oath of fidelitie of all the Peeres as of *His* Barons, and all the Commons in Parliament do by Law swear Alleageance to Him as to the *Onely Supreme Governour, and to assist and defend all Jurisdictions, Priviledges, Preheminences, and Authorities, belonging to Him, His Heires and Successours, or annexed to the Imperiall Crown of the Realme.*

25. H. 8. cap. 22. 24 H 8. cap. 12. 26. H. 8. cap. 2. 1. Eliz. 1. 1. Iac. 1. Co. 5. Codry case, fol. 9. b. vide the Parl. writ.

1. Eliz. 1. & 5. El. 1.

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By the ſame Oath alſo is every Officer of conſiderable truſt in Church and Common-wealth aſſured to His Majeſtie; and not onely they, but every ſingle man of twelve yeares of age ought by Law in ſome or other of His Majeſties Leetes to ſwear Alleageance to His Majeſtie: and never in our Law have we known an Oath of obedience to be made unto the Parliament, or any other Power in any caſe, either of miſ-government or danger, how extraordinary ſoever.

This Soveraignitie in the King appeares not onely by that Oath of Supremacie, but by the conſtant acknowledgement of our Acts of Parliament both antient and moderne, which alwayes ſtile the King *Our Soveraigne Lord the King*, that is, not Soveraigne Lord to every ſingle man onely (as the Obſerver traiterouſly and fooliſhly would make it) but the univerſalitie of us, even to our Bodie Repreſentative in Parliament. For we muſt note that though we have among us many that are called Lords even by our Acts of Parliament themſelves, yet being Lords without relation to the communitie or publique they are never called *Our Lords*, but *The Lords*, with addition of ſuch or ſuch place or Office; and they indeed are Lords *ſingulis*, not *univerſis*, for every particular man may call ſuch a Lord *My Lord*, but the Communitie may not call him *Our Lord*, for to be Our Lord is to be Lord of the Communitie, and that belongeth onely to *Our Soveraigne Lord the King*.

Our very Acts of Parliament declaring this State to be a right Imperiall Kingdom, a Kingdom (we know) conſiſteth of no more than two formall parts onely, that is to ſay, a Soveraigne Head, and a Subject Bodie; and then it clearly followeth that what cooperation ſoever there be of any of the Members with the Head for the doing of any neceſſary Act of State, whatſoever neceſſitie there be of the concurrence of thoſe Members; and howſoever they may ſeem to be Parties, Orders, or States, co-equally authoriſed in the power of acting with the Head, yet plainly there neither is, nor can be any co-ordination, nor co-equalitie of any Eſtate, Order, or Degree, of the Subject with

[illegible] Soveraigne, nor any competition of the Subjects power (in his concurrence) with the virtuall and primary influence of the Soveraignes power; but a plain subordination and subjected ministration of the one under the Soveraignitie of the other, as in the further examination of their differing interests will manifestly appear.

We see the Soveraignitie of this State clearly vested in the King, by Law established in Him, and inseparably annexed to His Person, by which He hath also inseparably both the Soveraigne power and Soveraigne judgement: but as in judging and determining matters of private interest, His power is not absolute, but is restrained to judgement, (not judgement arbitrary in His owm Person but judgement to be administred by the proper sworne Judges of His Courts of Law) so in matters of publique affaire, for so much as concernes the making of Law; His power and judgement are so restrained to the concurrence of the Nobles, and Commons in Parliament, as that He cannot make any settled Law without their consent: but then in all other things that are not expresly restrained by any Law, as in providing for the present safetie against suddain danger, which Senates are so unapt to do, as that the famous *Roman* Senate was ever fain to choose a *Dictator* to do it for them; likewise in levying of Armes, suppressing of tumults and rebellions, convoaking of Parliaments, and dissolving of them, making of Peeres, granting libertie of sending Burgesses to Parliament, treating with Forraigne States, making of War, League, and Peace, granting safe conduct and protection, indenizing, giving of Honour, rewarding, pardoning, coyning, and the like: in all these and divers other points of Regalitie, the Soveraignitie both of judgement and power ever hath been and still is in the King alone, freely and at his own discretion is secured to him by the Oath of Supremacie, whereby as aforesaid, the vvhole Representative of Commons, all Magistrates and men in place both in Church and Common-vvealth svvear *To assist and defend all jurisdictions, priviledges, preheminences, and authorities be*

Lo. Chas. Egertons Post nati 73. b.

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Psal.60,7. Gen.49.10 Deut.33. 4. & 5.

longing to the Kings. For it is plain, that seeing that by the Law of God and Nations, to be King is to be Supreme Judge and Lavv-giver, vvhosoever is King is supreme in every thing vvherein he is not especially restrained, and his restraint being by the peculiar Lavves of his Kingdome, he can be no further restrained than the knovvn Lavves thereof expresly manifest.

The great restraint of regall absoluteness in our State is in the tvvo points of declaring and making of Lavv, in neither of vvhich doth the King depart vvith any vvhit of his Soveraignitie. In the point declaring of Lavv, the King is restrained ordinarily to the mediation of his Judges, vvho to declare the Lavv by deliverie of the genuine sense and interpretation of Lavv according to to art and rules of science, are in their respective Courts the proper and authorised Judges, and Interpreters of Law, and do by their interpretation and judgement then binde both the King and Subject.

La. Cha. Egertons Post nati fol.22. & 23.sect.4.

Next above them upon errour supposed in their judgement, the House of Lords (who anciently were exercised in the Lawes and learned in them, and are assisted with all or most of the Judges of the Benches) do upon Writs of Errour in Parliament revise, and by the advice of the Judges affirme or reverse the Sentence of the next inferiour Courts, where the judgement whither given for the King or for a common person, may be reversed, and as well the King as the common person bound by their reversall and judgement, unless they be relieved by expresse Act of Parliament.

Other way of Declaring Law, in true proprietie of speech (that is, to declare the genuine sense and dictate of the Law as it naturally ariseth from the force of Lawes in being) there is none: for as for declaring Law by Act of Parliament, though that of all other be most authentique, yet it is not authentique for acurate judgement in interpretation supposed to be in the two Houses there, so much as for authoritie legislative administred by the three Orders of that high Court: for should the three Orders declare Law contrary to what were Law indeed,

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yet could not their Declaration be erroneous, for that it thenceforth altered the Law and made their dictate Law though it were none before. Such Declaration of Law therefore being never possible to be made but by the full legislative power of all the three Orders, is not so properly a Declaring or interpreting of Law, as rather the making of it, and is therefore to be referred to the point of restraint in making of Law. And this is clear that in such declaring of Law the Kings power is so much lesse restrained than it is by declaring of Law by their inferiour Courts as that in this he himselfe hath ever a personall Vote in the Declaration, but in other he hath none at all.

As to the restraint of regall absoluteneſſe in point of making Law. When our wise and pious Christian Princes had once brought the Kingdom to an happy frame of just and regular Government, and sought by all meanes the establishment of that good condition, which promised both prosperitie to their people, and stabilitie to their own Dominion. (Change and Innovation being thenceforth more to be feared than any other thing) They for preservation of what they had done, began to yeild the absoluteneſſe of their power, without which they could never have brought the State into any perfect frame, unto some retardation of motion, and regulation of power; and came by degrees not onely to use the advice of the Bishops and Barons in making of their Lawes, but their consents also; and then not onely their advice and consents, but the advice and consents of the Commons also; condescending at last that as to the power of making Law, their Scepter should thenceforth be locked up under the cautelous ward of a triple hand; so as no new Act whatsoever should obtain the Authoritie of a positive Law without the agreement of the King, the Peeres, and the Commons; to the end that no unadvised Law, not well examined and found agreeing with the interests of every of the three formall parts of this Kingdom, might in any part maime or enfeeble the established frame, which yet did not so much coop up or curbe the regall power from any due worke or

office

office that belongeth to it; as rather close and fence it in, within the bounds of safetie and of preservation.

Now this restraint being at first collaterall and accidentall to the Soveraigne power, did not in the beginning otherwise binde our Princes than by their voluntary and pious submission of their wils; till constant custome becomming a Law made that usage which was at first at their will, become an absolute and inevitable limitation of their power, so as that at this day no positive Law can now be made by the *King*, without the consent of the Peeres and of the Commons: and yet for all this necessitie now of their concurrence and consent, nor any part of the Soveraignitie (to which the legislative power is inseperably incident) is in any sort transferred, or communicate unto them: but as in our Copy hold Estates, the Copy holder of a meer Tenant at Will, comes by custome to gain a customary inheritance, and so to limit and restrain the will and power of the Lord, as that he cannot make any determination of the Copy-holders estate otherwise than according to the custome of the Mannour: yet does not he deprive the Lord of his Lordship in the Copy-hold, nor participate with him in it, neither yet devest the Fee and Frank-tenement out of the lord, but they still remain in him and are ever parcell of the Lords Demeasne. So in this restraining of the Kings legislative power to the concurrence of the Peeres and Commons: though the custome of the *Kingdom* hath so fixed and settled the restraint, as that now the *King* cannot in that point use his soveraigne power without the concurrence of the Peeres and Commons according to the custome of the *Kingdom*, yet still the Soveraignitie (and with it the inseperable legislative power) does soly reside in the *King*. As for the Peeres and Commons they being meerly Instruments of Regulation and qualification of the *Kings* legislative absoluteness, are no sharers with him in the Soveraignitie, but alwayes remain (as our very legislative Acts of Parliament do alwayes speak them) *His Majesties Subjects*. And His Majestie for all this restraining power of theirs remaines (as they themselves

themſelves in the legiſlative Acts, and not without an Oath, acknowledge Him their *true and onely Soveraigne*.

Apparantly therefore the Soveraignitie or regall power being thus in matters of private intereſt reſtrained to the rule, juriſdiction, and adminiſtration of Law, as well by inferiour Courts as by the Houſe of Lords; and in the publique affaire of making Law, reſtrained to the concurrence of the Peers and Commons, is not ſo properly ſaid to be reſtrained, as regulated. For neither is any of the *Kings* juſt and neceſſary power to the prejudice of the Crown taken from Him (for the Law in no ſort ſuffers any diminution of the juſt and due Soveraignitie) neither is there any partenerſhip of the Supremacie thereby thruſt upon the *King*, when the Law, notwithſtanding the reſtraint expreſly declares Him *The onely Supreme Governour*. Neither yet is any of the irregular and exorbitant abſoluteneſſe, which the Law ſeparates from the regalitie, any way transferred to the Courts or perſons that are the inſtrumentals of the regulation, but the Law ſeparating all irregular licentiouſneſſe from the Regalitie, utterly annihilates and makes null all practice and exerciſe thereof. In ſumme, all that is effected by this regulation is, the *King* as He ever was, ſo ſtill remaines, wholly and ſoly Soveraigne of the Kingdom onely, not of a licentious and illegall, but of a regular and legitimate Dominion.

But when the power and authoritie of Parliament is acknowledged to be the higheſt, moſt abſolute, and moſt Soveraigne power in the *Kingdom*, and ſeemes repugnant to that which we have alleadged, that the Soveraignitie is wholly and ſoly in the *King*; We ſhall eaſily reconcile that apparition of contradiction, if we conſider that we uſe the word *Parliament* to divers ſenſes, and that in two ſenſes wherein we uſe the word *Parliament* there is no Soveraignitie to be aſcribed to it.

We ſometimes uſe the word *Parliament* for the Houſe of Lords onely. As when upon Writs of Errour any Judgement in the *Kings* Bench is examined in the Houſe of Lords, and there affirmed or reverſed, the Judgement is ſaid to be affirmed

or reverſed by Parliament. And yet though in that ſenſe, the Houſe of Lords is well enough called The Parliament, yet is it not the high Court of Parliament, which is the ſupreme Judgement, power, and Authoritie of the *K*ingdome, and that we may eaſily ſee in this, that though the Lords have power there to reverſe the Judgements of their inferiour Courts, yet have they not power to reverſe their own Judgements, nor to reſtore again any Judgement that they have reverſed, for they judging miniſterially, and not ſoveraignely, do as well binde their own hands as the hands of their inferiours, whereas the abſolute ſoveraigne power doth not ſo, but may reverſe any judgement that they themſelves have given, and again reſtore the judgement that they themſelves reverſed, for the abſolute ſupreme Court having *Juris dandi dictionem*, can never be at the laſt period of her juriſdiction, but looking ever forward to the preſent occaſion, whatſoever paſſed before, it *pro re natâ* legiſlatively judgeth, maketh, and declareth Law. But the Houſe of Lords (though the moſt ſuperiour of all Courts of miniſteriall iuriſdiction) and all other inferiour Courts, (they having no other iuriſdiction than onely *juris dati dictionem*,) in uſing their iuriſdiction do conſummate it, and bring it to a period, beyond which they cannot go. Beſides the Houſe of Lords is noruniverſally to all occaſions a iudicatorie, and therefore not ſoveraigne, but is the diſtinct Court of the *K*ings Barons of Parliament of particular and miniſteriall iuriſdiction, in which the *K*ing (though one of the three Voters in Parliament) yet in thoſe things which come by proceſſe of Law to receive determination there onely, hath no Vote at all, no more than in all other Courts of miniſteriall iuriſdiction.

Sometime we uſe the word Parliament for the two Houſes of Parliament onely, and that in regard they are the groſſe of the Bodie, whereof the *P*arliament conſiſts, there wanting onely the Soveraigne Head to compleat it. But the two Houſes alone without the *K*ing are ſo farre from being the ſupreme and high Court of *P*arliament, as that they are not at all a compleat

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Court, neither can they ſo unite or conioyne as to be an entire Court of either ſoveraigne or miniſteriall iuriſdiction. But are two diſtinct Courts (if ſo be the Houſe of Commons which cannot miniſter an Oath, nor fine, nor impriſon any but their own Members) may be called a Court, then are they Courts, not otherwiſe co-operating, than by concurrence of Votes in their ſeverall Houſes, for preparing matters in order to an Act of all the three Orders of the Parliament, which when they have done their Votes, are ſo farre from having any Legall Authoritie in the State, as that in Law there is no ſtile, nor forme of their joynt Acts, nor doth the Law ſo much as take notice of them, untill they have the royall aſſent, which if the King refuſes, he yet doth no injurie to any, for that every of the three Orders that are the formall parts of the high Court of Parliament, (that is, the King, the Peeres, and Commons) are every of them by Law truſted for their own reſpective intereſts to be the onely aſſured Conſervatours of the rights that do belong unto them, and may therefore every one of them freely diſſent from the Votes of the other two, nor is their any danger that it ſhould be ſo, but contrarily the moſt aſſured ſafetie that may be, for the conſequence of their not agreeing can be no worſe, than that their ſeverall intereſts ſhall ſtill remain in the condition that they were before, untill ſuch time as that they ſhall all three agree upon the ſtate of alteration. Now when the two Houſes alone do no way make an entire Bodie, Houſe, or Court, and when their is no known ſtile, nor forme of any Law, or Edict by the Votes of them two onely, nor any notice of them taken by the Law, it is apparant there is no Soveraignitie in their two Votes alone.

To argue now as ſome do, that the King muſt not deny His vote, for if by denying it He may fruſtrate the Votes of the two Houſes, by the ſame reaſon may He fruſtrate the Votes of all inferiour Courts, and open a way to the moſt boundleſſe tyrannie that ever was, is a moſt perverſe and abſurde falſitie; there being no affinitie nor reſemblance of the courſe of thoſe

Courts with that of Parliament. For in inferiour Courts the Judges ſit and give Judgement for the King, and not for themſelves; and the Law there authoriſes them to give the Kings Judgement, and none but them, and therefore the Kings Diſſent or Countermand cannot fruſtrate their Judgements. But in Parliament the Peeres and Commons neither ſit nor Vote for the King, but for themſelves. And the Law appoints the King himſelfe to give His own Vote there (which if the Peeres and Commons in His abſence could have ſupplied, the Statute 33. *H.* 8. 21. needed not have provided that His Conſent or Vote by His Letters under His Great Seale ſhould be as effectuall, as if He himſelfe in Perſon had aſſented.) Beſides the Judgement given by the Judges in inferiour Courts, is compleat in Law without the aſſent of the King, and therefore cannot be fruſtrate by the Kings diſſent; but the Votes of the two Houſes are therefore to be fruſtrated for want of the Kings aſſent, becauſe without it they are not compleat nor perfect. The high Court of Parliament therefore reſembling a Chaire of three feet, the two Houſes make but two of the three, which without the third is lame and uſeleſſe (as to making of Law) but with the third becomes a firme and uſefull ſeate, and makes that ſacred *Tripos* from whence the Civil Oracles of our Law are delivered. When therefore we ſpeake of the Soveraigne power and Authoritie of the Parliament, that never is to be underſtood of the power of the two Houſes onely, nor any ſuch Soveraigne power to be aſcribed unto them.

Now in the laſt place, we uſe the word Parliament for the three Orders of Parliament agreeing in their Votes; then, and then onely uſe we the word Parliament properly, and in that ſenſe onely is the Parliament the ſupreme Court, the higheſt judicatorie, and moſt ſoveraigne power, and authoritie in the Kingdom. But we muſt ever underſtand, that it is not the moſt Soveraigne Court, for any Soveraignitie placed in the two Houſes, and from them transferred or communicated to His Majeſtie, by their joyning or conſenting with him; but it is there

therefore the moſt ſoveraigne Court, becauſe every compleat and perfect Act of it is the Act of the perſonall will, and power of the Soveraigne himſelfe, *Standing in His higheſt Eſtate Royall*, and (through the concurrence of thoſe that are the inſtrumentals of His reſtraint) more freely and abſolutely working there, than in any other time and place he can do. For as a man that yeildeth himſelfe to be bound by keepers, hath the uſe of his ſtrength taken from him, but none of the naturall ſtrength it ſelfe, much leſſe any of it transferred to them that bound him, but whenſoever they looſe his bonds, he again workes and acts by virtue of his own naturall ſtrength, and not by any received from them: So the naturall right and intereſt of the Soveraignitie being ſoly in the King, and the Peeres and Commons being onely intereſſed in the Office of reſtraining, for the regular working of true legitimate Soveraignitie, in whatſoever the Peeres and Commons by conſenting remit the reſtraint, the King in that willeth and worketh abſolutely by the power of his own inherent Soveraignitie. And whatſoever Act of the Court ſo paſſeth the hands of all the three Orders, does in truth virtually proceed from the King, as from the true and proper efficient thereof: which does not obſcurely nor rarely appear in our Acts of Parliament, but plainly and frequently throughout the whole Bodie of our ancient Lawes, *The King Willeth, the King Commandeth, the King Ordaineth, Provideth, Eſtabliſheth, Granteth, &c.* And yet though properly they be the Acts of the King in Parliament; yet are they alſo truly the Acts of the whole high Court of Parliament, becauſe that every of the three Eſtates contribute their power according to the diverſitie of their office and intereſt, the two Houſes by remitting through the conſenting the reſtraint, and the King by uſing his then unreſtrained power.

Crompt. Jur. 10 b. The ſpeech of *H.8.* in Parl. by information of the Judges.

Stat. Weſt. 1, 3. E. 1. 1. 3. & 6. & 42. St at. of Merch. *13. E. 1. Weſtm. 2. 18. E. 1. 1. Stat.* of waſte *20. E. 1.* of Appeale, *28. E. 1. 1. E. 2. 1.* and all the Titles of the Acts of our Parliament.

We are alſo to conſider, that though this high Court of the three Orders be the ſupreme Judicatorie of the Kingdome, yet it hath not that ſuperioritie of judgement aſcribed to it, for any ſoveraigne facultie it hath in diſcerning the true dictate and re-

Vnicuique in suâ arte credendum. 11.H.7.9. 34.H.6.14

sult of Law, no more than of any other particular Science (as of Divinitie, Philosophie, Physicke, Mathematiques, &c.) for the judgement of Sciences belongeth to the professours thereof, and the judgement of Law as well as of other Sciences. But the high Court of Parliament is the supreme judge, for the great trust the Law reposeth in the concurrence of all the three Orders, (who have meanes to have the best information of Law that the whole profession doth afford, and are supposed to use it) and likewise for the great power they have to binde all other judgement, and to make their sentence Law, though (as we have said) it were not Law before.

But we are further to observe that in the point of making of Law, the Law restraining thus the Soveraigne power to the consent of the Peeres and Commons, the more that by this regulation it purged it from destructive exorbitances, the more tender it grew of the just and legitimate rights thereof remaining, and therefore considering the person of the Soveraigne to be single, and his power counterpoised by the opposed wisedome of the two numerous Bodies of the two Houses, it allowed unto the King power to sweare unto himselfe a Bodie of Councell of State (which our Lawes sometime call *His Grand Councell*) and to sweare unto him also Counsellours at Law, even the Judges themselves, and others learned in the Law, faithfully to advise him in his Government, that he may neither do nor receive wrong, especially not in Parliament, where the wrong may be perpetuall. And if upon a generall pretence of evill counsell, without any instance in what, his Majestie be deprived of the use and assistance of and assistance of any of his sworne Counsell (especially in Parliament time, when the Soveraignitie may be so easily overmatched) it will make such a breach of the priviledge of the first of the three Orders in Parliament, as will destroy the true frame of Parliaments, dimi-

25.E.3.4. 37.E.3.18 42.E.3.3 17.R.2. *Vide* the Oath of the Justices, *an.* 18 E.3. Yee shall sweare &c. that lawfully ye shall counsell the King in his businesse, and ye shall not counsell nor assent to any thing which may turne him in damage, &c. and ye shall do and procure the profit of the King, and of his Crown, with all things, where ye may reasonably do the same, and if ye be found in default, &c. ye shall be at the Kings will, of bodie, goods, and lands, thereof to do as shall please him. So helpe, &c. *Vide* the Statute *de Bigam.*

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nish the power of the Crown, and bring the setled estate of the Kingdome into the calamitous innovation of an unsettled and ever changing Forme of Government, and so into all manner of miserie and confusion.

The Soveraignitie in the King alone, is so clearly acknowledged by our Law, as that (unlesse we would reiect the iudgement and recognition of all our Parliament, and especially of all our most sincere and unquestioned Parliaments all the time of Queen *Elizabeth*, and ever since, all which do not onely affirme but sweare it) it would be idle to go about to make praise of it. But when the incredible perverseneſſe of some, and in particular of him that writes, *The treacherie and disloyaltie of Papists, &c.* does not onely affirme the contrary, but would pretend to prove it. It cannot be a digression in a word or two to give some answer to his reasonings.

I shall passe over *Minshaw's* Dictionarie, *Speed*, *Stowe*, *Powell*, *Foxe*, and others, whose authoritie he is not ashamed to cite for determining matter in Law, and which (if indeed it were a question) were of the greatest consequence that ever was stirred in Law. And because he so much insists upon *Bracton*, I shall briefly examine *Bracton*, and the Authours integritie in citing him and others.

And first, that all men may know how little authoritie in Law *Bracton* either now hath, or anciently hath had. Our yeare-bookes tell us that in the 35.*H.6.* It was declared by the whole Court, that *Bracton was never held an Authour in our Law*, and then it is not materiall what is the opinion of one that is of no authoritie. But if he were; yet those words in *Bracton* so much insisted on, *Rex habet superiorem Deum, Legem, item Curiam suam, &c.* are not indeed *Bractons* assertion. For *Bracton* speaking of the Kings Deeds and Charters, andaffirming (which we would be loath should be Law at this day) that *Neither the Iustices nor private men may dispute the Kings Deed*, but that *if there be doubt of his Deed*, or Charter, *the resolution must come from the Kings own interpretation and will, &c.* Then goes

35.*H.6.* *Fitz. Abr. tit. gard.* 72.*pag.* 3: *Bract. l.* 1: *c.* 16. *par.* 3 *fol.* 34.

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he on thus; *But ſome may ſay* (ſaith he) *that the King may do iuſtice, and well: and if ſo, he may by the ſame reaſon do ill, and ſo put a neceſsitie upon him, that he mend the injurie, leaſt both King and Iuſtices fall into the judgement of the living God for the injurie. The King hath a Superiour*, to wit, *God: alſo the Law, by which he is made King: alſo His Court*, to wit, *the Earles and Barons, &c.* Now whoſoever conſiders the place, it is all a reaſoning which *Bracton* ſuppoſes ſome other to make, and no affirmation of his own, and that is alſo plain by his words in another place, where ſpeaking of the King, *If Iuſtice* (ſaith he) *be demanded of him, ſeing no Writ lies againſt him, one muſt petition, that he would correct and amend what he had done. Which if he do not, it is ſufficient for his puniſhment, that he muſt expect God to be the Avenger of it.* Not a word of the Courts avenging or rectifying of the iniurie, or of their enforcing the King to do it himſelfe. Again, ſpeaking of Earles, though with little iudgement he would ſeem to derive their Office from the Etymologie of the Latine name *Comes* (which was but a late borrowed tranſlation brought in uſe by the Conquerour) and would ſo make them a kinde of Companions with the King; yet does he not make them Companions thruſt upon the King by Law, but *the Kings* (ſaith he) *do aſſociate ſuch to themſelves for advice and government. Every one truly is under him, and he under none but God, and he hath no Peer in his Kingdom, for then he ſhould looſe the Command, when as one Peer hath no command over another, much leſſe hath any one command over his ſuperiour, for ſo he ſhould be inferiour to his own Subjects: and the King ought not to be under man, but under God, and the Law*: now theſe words of *Bracton* tell us that the other are neither his aſſertion nor approbation.

Bract. l. 1. c. 8 p. 5.

And whereas by thoſe words of *Bracton*, that *The King ought to be under the Law*, he would inferre a direct Soveraignitie over the King, he very much corrupts the meaning of *Bracton*, for it is one thing to be ſubiect to Law, and to the adminiſtration of Law, and another thing to be a Subiect to thoſe that have the adminiſtration of Law as to his Soveraignes. Our Saviour *Chriſt*

Christ was subiect to the Law, and to the administration of the Law in the hands of them that were the Ministers of it: yet was not *Christ* the Subject of those Ministers, nor they his Soveraignes, but contrary he theirs, he being *Borne King of the Iewes*. And *Bracton's* reason that the King must be under the Law is, *because he is Christs Vicar on earth*. And *Christ* himselfe was under the Law; so as plainly *Bracton* meanes not the King, otherwise under the Law, then as our Saviour *Christ* was, who did subject himselfe to the just execution of the positive Lawes of the Kingdom, of which he himselfe was the Head and Fountain, not that he should be subject to the administration of any arbitrary Law, residing in the people, who should in the last resort be Soveraignes over their own King: for that was not sutable to one that should be *Vicar of Christ*, but to a *Vicar of the people*. Neither is the King more subject to any judgement that can be given in Parliament, than He is to judgements given in inferiour Courts, to which if you will say the Parliament is superiour to those Courts, and the superioritie that is but subordinately in them is soveraignely in the Parliament; truly the superioritie (if it may so be call'd) that is subordinately in the inferiour Courts, is but more superiourly in the House of Lords than them, but it is not soveraignely neither in the Lords House, nor any other part of Parliament, till we come to the judgement of all the three Estates, (where the Kings will is the efficient for mall of the Law) and there you may see that the Vicar of *Christ* the King, like *Christ* His Lord, whom He representeth; in being subject to the Law, of which He is Soveraigne, becomes at last subject to none but Himselfe: for that high Court of Parliament speaketh not without Him.

But ere we give over his citation of *Bracton*, we must not forget his unfaithfull application of it. For as for those words, *The King hath a superior* (that is to say) *God, also the Law, also His Court, to wit, the Earles and Barons*. He would not onely have them *Bracton's* words, and have them understood to carry Soveraignitie over the King, but would have that Soveraignitie

placed in the two Houſes, when as *Bracton* expreſly expounds that the Court which he meanes is the *Earles and Barons*, that is to ſay, the Houſe of Lords onely, and not the Commons too; plainly ſhewing that he meanes no other ſuperioritie than ſuch as is incident to the regular courſe of Juſtice in the way of legall ſuit and proceſſe, which in that courſe never goes further than the Houſe of Lords: there is no forme of proſecution in that kinde in the two Houſes, and therefore neither Soveraignitie nor Superioritie in that kinde can be aſcribed to them.

Pag. 38. Neither may we paſſe over his falſhood and ſhuffling to extenuate the Oath of Supremacie, that ſecuritie may make men ſwallow their perjurie and never know it: for though it be true, that the Oath was pricipally intended againſt Papacie, (becauſe the *P*apacie was the firſt that ever pretended Soveraignitie over Kings) and the clauſe of renouncing runnes againſt Forraigne powers onely, as thoſe that then were onely feared to be pretenders under the *P*apacie; yet the recognition it ſelfe, that *The King is the onely Supreme Governour.* And the Oath it ſelfe, to *beare faith and true Alleageance to the King, His Heires, and Succeſſours, and to aſsiſt and defend all juriſdictions, priviledges, prehemineuces, and authoritie belonging to them, &c.* are clearly generall, abſolute, and unreſtrained to any particularitie of *P*apacie, Forraigners, or any thing elſe whatſoever.

But to come to that that is the maine Authoritie, ſcope, and drift of his book, and which he would by all meanes inculcate though but under the ſhew of telling what popiſh *P*arliaments have done, leſt otherwiſe his horrible intention might appear, he brings us precedents that the two Houſes of *P*arliament have upon all occaſion ſoveraignely diſpoſed of the Crown, and of all the rights that do beloug unto it, and that even our Kings themſelves have ſubmitted their ſoveraigne rights to the determination of the two Houſes. Good God! How *Evill men and Seducers wax worſe and worſe, deceiving, and being deceived.* He that writ the Obſervations upon His Maieſties Anſwers and Expreſſes had ſo much ingenuitie left him as to acknowledge,

2 Tim. 3, 13.

that

that *There was never King deposed by any Parliament lawfully assembled*; and that the Acts of the Parliament, *R.2.* were not so properly the Acts of the two Houses as of *H.4.* and His victorious Armie. But this man being not ashamed to licke up what his fellow vomited out, presents the world with a cull of all the irregular times of our unfortunate Princes, in which (by the consent of all men) the Acts of neither side are to be drawn into example, and bring us for judiciall Authorities, the horrid facts of irregular power, in the Times of King *Iohn*, *R.2.* *H.4.* *H 6. &c.* And is so supine in his purpose, that with the factious Parliaments in the Times of *H.3.* *E 2.* and *R.2.* (which he cites to have exercised authoritie over Kings) he stickes not to couple the Rebellions in the North, against *H.4.* and the rebellious Insurrections of *Iacke Cade*, *Iacke Straw*, *Wat Tyler*, Doctour *Mackerell*, *Ket*, and others, as Acts that made equall proofe of the soveraigne power of the Peeres and Commons: indeed in both there were much what the same pretences, and both had much what the same warrant. *Ed.2.* *pag.8. to pag.15.* *pag.25.*

But all those Parliaments as they were called in the troublesome Times of Faction, and Civill War, so were they ever swayed by those that were the Heads of the most potent Faction, and while they alwayes acted in favour of them and their Designe, they are so farre from being instances of the power, and authoritie of the two Houses, as that cleane contrary, they are plain instances of the weaknesse and unsteadinesse of them; when forsaking the moderation and guidance of their naturall Head, they suffered themselves to be lead by the private conduct of every popular pretender; and so even among the precedents which he citeth, we see that when *Canutus* prevailed by his Armes, he could have a Parliament resolve that his Title was the best. When *Hen.4.* had an Armie of 60000. he could have a Parliament depose *R.2.* and conferre the Crown upon himselfe. When *Edw.* Duke of *Yorke* grew potent, he could have a Parliament be the instrument of determining the Raigne of *H.6.* and leave him onely the name of King for his life, *pag.33, 34,35,35.*

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but give the Duke the very Kingdom, under the names of *Protectour* and Regent, *Edw.4.* could by *P*arliament procure *H 4. H.5. & H.6.* to be declared Kings in fact, but not in right: *R.3.* though an Usurper, could procure a *P*arliament to declare him a lawfull King. *Henry 7.* could procure the forementioned Acts in favour of *Edw.4. & R.3.* to be adnulled. *Hen.8.* could have a Parliament authorise his Divorces. And Queen *Elizab.* could by Parliament make it High Treason to say, that the Queen could not by Act of *P*arliament binde and dispose the rights and Titles which any person whatsoever might have to the Crown; when yet we know that no Act of Parliament, no not an Attrainder by Parliament, can disable the right Heire to the Crown, because the descent of the Crown upon Him purges all disabilities whatsoever, and makes Him capable of it.

Adjudged H.7.

This is the summe and true estimate of all the Authorities which he cites, in which if the Acts could be granted to be the meer Acts of the two Houses; yet did they no more prove the soveraigne power to be in the two Houses, than the Popes deposing of Kings proves the right of deposing them to be in him, that the things were done, is no proofe that they were lawfully done: and yet as idle and vile a collection of examples (not to be imitated) as he hath made, he is fain to belie them to makem seem to serve his turne; for truly though he affirmes that the popish Parliaments, &c challenged, or claimed, greater jurisdiction over Kings, than any ever since, yet his instances prove no more claime of Soveraignitie than a robber claimes when he exercises an arbitrary power over a mans person and fortunes: what they did they did *de facto*, upon some inferiour reasons, not upon claime of the Soveraignitie; they neither taught, nor ever learn'd that Jesuitique *depth of Sathan*, that the Soveraignitie over the Soveraigne is placed in the Bodie Representative of the Subject. All claime therefore of either the Soveraignitie it selfe, or of the rights thereof by any Representative of the Subject, is a transcendent impietie beyond the parallell of all his unimitable examples, in which I

Pag.4.

cannot

cannot but the more wonder that he ſhould aſcribe the Acts unto the two Houſes, when by making the Acts theirs, he makes all the long miſerie and bloodſhed that enſued upon thoſe Acts to have been brought upon the Land by the meer Act of the two Houſes. Conſidering therefore the every way faulty Argument of that Book, both in citing and applying, I am forced to conclude with the ſame words that in the frontiſpice of his Book he begins with *The treacherous dealers have dealt treacherouſly; yea, the treacherous dealers have dealt exceeding treacherouſly.*

As for the ſecond part of the ſame Author that came ſince forth under a title that pretends to ſhew the *lawfulnes of a defenſive war*; that anſwers it ſelfe, that it comes nothing to the caſe in queſtion, where the War is acknowledged to be an Invaſive War to take from His Majeſtie certain Counſellours, pretended to be evil Counſellours. If poſſibly therefore he ſhould prove what he undertakes to maintain that Subjects may make a Defenſive War againſt their Soveraigne, yet being nothing to our caſe deſerves at all no anſwer here, I therefore returne again unto my purpoſe.

That the Soveraignitie (with all the rights claimed by His Majeſtie) is in the King inſeparably inherent in the perſon of His Majeſtie; we have not onely the forementioned teſtimonies and reaſons, but we have the witneſſe of the two Houſes themſelves, for whom our deceiving Pamphlets do now make all the new arguments of pretence. For firſt, we have (as I have ſaid) the whole current and bodie of our very Acts of Parliament acknowledging it in theſe very termes, *Our Soveraigne Lord the King*. We have the Parliament 25. *H.*8 declaring thus, *This Your Graces Realme recognizing no Superiour under God but Your Grace*. The Parliament 16. *R.*2. 5. affirming *The Crown of England hath been ſo free at all times, that it hath been in no earthly ſubjection, but immediately to God, in all things touching the regalitie of the ſaid Crown, and to none other*. In the 25. *H.*5 both Houſes declare *That it belongeth to the Kings regalitie to grant or denie what petitions in Parliament he pleaſeth*. In the 15. *E.*3. The King being unwillingly drawn to conſent to certain Articles prejudiciall

Co. 5. *de jure & Ecc.* *fol.* 9. *b.*

25 H. 8. 21.

16. R. 2. 5.

25. H. 5.

15. E. 3.

to the Crown, and to promiſe to ſeale the Statute thereupon made, leaſt otherwiſe his affaires in hand might have been ruinated. Another Statute the ſame year reciting the matter enacted in theſe words, *It ſeemed to the ſaid Earles, Barons, and otherwiſe men, that ſince the Statute did not of Our free will proceed, the ſame be void, and ought not to have the name nor ſtrength of a Statute, and therefore by their counſaile and aſſent We have decreed the ſaid Statute to be void, &c.* In the Statute of Baniſhment of *H. Spencer*, the firſt Article againſt him, is for making a Bill, wherein he affirmed *Homage and alleageance to the King is more by reaſon of their own, than of the perſon of the King.* The word hath a note of a Parliament roll Diarie of *H.*4. The Commons in Parliament pray the King that *They may not be made parties to any judgement in Parliament, but where in rei veritate they are parties, for that the judgement belongs onely to the King, except where it is given by Statute.* As for the *Militia*, the Shippes and Forts of the Kingdom. The King and His Predeceſſours have not onely been ever in poſſeſſion of them, commanded and diſpoſed of them even during the ſitting of Parliaments, but have enjoyed that poſſeſſion without any claime of right made by the two Houſes, and our Law hath not a ſurer badge of right than continuall and unqueſtioned poſſeſſion. Beſides, the Parliament it ſelfe, 7.*E.*1. declares unto the King, that *To him of right belongs ſtraightly to defend* (that is, to forbid) *all force of Armes, and thereunto they are bound to aſſiſt him as their Soveraigne Lord.* The Statute 11.*H.*7 18. reciteth, *Where every Subject by the dutie of his Alleageance is bound to ſerve aſſiſt his Prince and Soveraigne Lord at all ſeaſons when need ſhall require, &c.* In the 3. of *Edw.*3. The Houſe of Commons diſclaime the having cognizance of ſuch matters, as the guarding of the Seas and Marches of the Kingdom. And by the Statute 25.*E.*3.2. It is made High Treaſon for any to meddle with the *Militia*, ſo farre as *To levie Warre againſt the King, or to aide them that do it.* And we all know that to levie Warre without Commiſſion from the King, or to give aide unto it, is by our Law to levie War, and give aide *againſt our Sove-*

5.*E.*3.

*Vide Ola Mag. Cha. Diar. H.*4.

7.*E.*1.

3.*E.*3. *De queux ils nont pas cogni-zance* 25.*E.*3.2.

Soveraigne Lord the King, His Crown and Dignitie. And we never knew of any exception out of that Law in case the Werre were levied by Authoritie of the two Houses: And when we have not in our power to search the Parliament rols for clearing these things. If (besides our published Statutes) our Law-bookes have any authoritie, we have not onely *Bracton* (whom they insist upon) but other authentique Law-bookes concurring with him who all speaking of the King and the Houses do expresly say, that seeing *The King hath no Peere, The King cannot be judged by them.* So that whatsoever authoritie is in the constant practice of the Kingdom, and whatsoever authoritie in the known and published Lawes and Statutes, all do conclude the Soveraignitie in the person of the King, and the alleageance, faith, obedience of the Subject even of the Subject virtually united in the Bodie Representative, to be inevitably devinct and obliged to the person of the King.

3. E. 3. *Fitz. tit. Cor. Cam. pl. Cor.* 153. *Bract. li. 2. cap. 22. fol. 52. a. Rex parem non habet, nec vicinum nec superiorem.*

The Soveraignitie both of the frame of the State and positive Lawes of the Kingdome being fixed in the person of the King, and the Alleageance of the Subject by Law inevitably thither assigned, then comes in Religion, and fortifies, and enforces all those bonds of dutie and obedience, and that under the severe menace of damnation, which when it is in divers precepts and examples (well known unto us) abundantly set forth in the Scriptures. It will not be safe for us to let slip the consideration of two examples especially.

The Children of *Israel* being redeemed out of *Egypt*, baptized in the Red Sea, and brought for triall into the wilderneſſe as they were the type of the Church of God in all Kingdomes whatsoever in this world: so *Moses* their Governour was the type of that regall power under which the Church of God in this world was generally to be governed: so as though he were not a King in point of interest, (for the people were not yet in the Countrey that was to be the Kingdom, neither was *Moses* of the Tribe to whom the Kingdom was promised) yet (saith the Text) *He was King when the heads of the people were assembled.* *Deut. Moses* 33. 5.

Moſes ſo perſonating the kingly Office, when as yet there was no expreſſe command concerning obedience and ſubjection, more than *Honour thy father and thy mother, and he that curſeth father or mother let him die the death.* It happened that *Corah*, *Dathan*, and *Abiram* rebelled againſt him, and their rebellion was but this: they in the behalfe of the Congregation of the Lord,
Numb. 16.3. becauſe that it *was holy every one of them, and the Lord among them*, queſtion *Moſes* his Soveraignitie, charge him and *Aaron* that they exalted themſelves above the Congregation of the Lord, and that *Moſes* had not kept touch with them to bring them to a Land that flowed with milke and honey, but fought to ſtarve them in the wilderneſſe, while blinding the eyes of the people
ib. v. 13. he might in the mean time make himſelfe a Prince over them, and out of jealouſie of this they refuſed obedience to *Moſes*, and would not come at him when he ſent to call them, and ſo much was their cauſe believed to be juſt and right: as that they were ſeconded with *two hundred and fifty Princes of the Aſſemblie famous*
ib. v. 2. *in the Congregation*: all of them ſo confident, that they durſt joyne iſſue with *Moſes*, and put themſelves upon triall by Gods immediate judgement in the caſe, and they were alſo backed with many thouſands of the people. This was the Rebellion: the Judgement we all know to be moſt exemplar Judgement that ever was given in any caſe. The Heads of the Rebellion *Corah*, *Dathan*, and *Abiram*, with their wives, their children, and all their ſubſtance, were ſwallowed up of the earth, they *went down*
Pſal. 106. 17. *quicke into Hell* (ſaith the Pſalmiſt.) The two hundred and fifty that invaded the holy Office were ſlain with fire from Heaven, and fourteen thouſand and ſeven hundred of the people (that favoured their attempts and murmured at the Judgement) were in an inſtant (in leſſe than *Aaron* could get his Cenſer with fire from the Altar and run among them) conſumed in a ſpeedy plague.

It will be objected that *Moſes* was a man of extraordinary calling, and that Rebellion againſt an ordinary Governour (though a ſoveraigne King) is not like Rebellion againſt a Go-

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vernour of so extraordinary calling and priviledge; all that granted, yet this exemplar Judgement comes home to manifest the hainous sin of rebelling against Kings at this day.

Moses had an extraordinary calling, he could not else have been a type of regal Authoritie, but in type *He was King when the heads of the people were assembled.* He had the Priest made subordinate to him, *He shall be unto thee instead of a mouth, and thou shalt be unto him instead of God.* And had the Magistracie, derived from his Authoritie, to beare the burthen with him, *God took off the spirit that was upon him, and put it upon the seventie two Elders.* So *Moses* was clearly endued with regall power; and for trangression against that very Authoritie of his was the Judgement made so exemplar. It could not be exemplar in regard of any other Authoritie which he had then, and no other since either had or could have: but that we may know the Judgement was exemplar against Rebellion, against regall Dominion, which would often be committed in the later dayes, the holy Ghost speaking against the seducers & deceivers wch in *the later dayes* should make *perilous times*, describes them not onely by being *Cursed speakers, disobedient to parents*; (that is, as well to Civil parents as Natural) *traiterous, headie, high-minded, resisting the truth*: like them that resisted *Moses*; *Despising Dominion, despising Government, speaking evill of Dignities, of those that are in Authoritie, of those things which they know not, &c.* but by this likewise that *They perish in the gainsaying of Corah.* The other example is that of *David.* *Saul* was a wicked apostate King, from whom *The Spirit of God* (the inward anointing) *was departed. Saul reiected from raigning over Israel.* So by God himselfe declared. *David* in his stead by *God provided to be King*: and to that end by Gods command anointed; by all which *David's* priviledge then was more above the priviledge of all Subjects now, than *Saul's* priviledge of that time was above the priviledge of Kings at this day; and yet *David* for all those circumstances so much authorising him, and dis-authorising *Saul*, did not know *Who could lay his hands upon the Lords Anointed and be guiltlesse*. Nay, he did but lay his hand upon

Deut. 33. 5.
Exo. 4. 16.
Numb. 11. 25.
2 Tim. 3. 2. & 4.
2 Pet. 2. 10. Jude 8. 10. & 11.
1 Sam. 16. 14. verse 1.
1 Sam. 26. 9.

Afterward *David* was touched in heart because he had cut off the lap of *Saul's* garment. 1 Sam. 24.6.

Saul's garment to cut off the lap for a testimonie of his loyaltie, and innocent intention toward *Saul*, and yet even for that (saith the Text) *his heart smote him*; that he cried out, *The Lord forbid I should do that thing to my Master, to lay mine hand upon the Lords Anointed*: his reason we may know in the other words of his, *The Lord shall smite him, or his day shall come to die, or he shall descend into battaile, and perish: the Lord keep me from laying mine hand upon him*: plainly inferring, that to call Princes to account belongs onely to God: that God hath time and wayes of his own to do it in, and will do it: and that therefore man must not meddle with the doing of it: for if anointed *David* might not intermeddle with rejected *Saul*, much lesse may common Subjects meddle with their unrejected Soveraignes. Sufficiently therefore do these examples shew the heinousnesse of Subiects lifting up themselves, and resisting the person of their Soveraigne, upon what pretence soever.

Now while the severitie of these examples, and other passages of Scripture, iustly striking terrour into every soule, does make us wonder what great straight of humane affaires could be so violent an impulsive with us, as to make Christian Subiects contrary to sworne Faith, to Law, and to Religion, not onely disobey their Soveraigne, but resist, invade the soveraigne rights, and imploy their Soveraignes *Militia*, Shippes, Forts, Armes, Treasure, yea and his own sworne Subiects too against Him, truly all that the most searching thought can finde to secure his conscience with, against the horrour of so foule a guilt, is, that otherwise we feare (or pretend to feare) that His Maiestie, seduced by evill Counsellours, by popishly affected Prelates, Courtiers, and Cavaliers, should destroy our Law, our Parliaments, our established Forme of Government, and change them into tyrannnie, and the true Protestant Religion into Poperie. This, this Feare or pretence of Fear alone is all the warrant we can finde for our unparallelled proceedings against our Soveraigne. And if this before the Tribunall of God, and of our own Lawes be not sufficient for our excuse, then have we

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nothing to discharge us of the guilt of publique violence, robberie, murder, periurie, treason, resistance of the Ordinance of God, and of forcing others against their consciences by act or aid to resist with us. Now all these evils are universally committed all over the Kingdome, and all these evils upon no other warrant done, than that the good of Reformation (as is pretended) may come thereon. So make we the Word of God of none effect, while we entertain and preferre the Jesuitique tradition before it, and maintain that what is for the good of the Church must be done, notwithstanding any bonds of dutie, of Faith, or Oath whatsoever to the contrary.

And if we examine the grounds of this Feare, and what iust suspition and probabilitie of such an innovation, as is pretended to be feared, is given. We see for our assurance to the contrary, that His Maiestie (after once He was truly informed of our grievances) condescended not onely to give us ease of them, but to make His Acts of Grace in them at once exceed the Acts of all His Predecessours since the granting of our *Magna Charta*; and did not onely in present relieve our sufferings, but (often invoking the Sacred Maiestie of God, as a severe Witnesse of His purpose for the time to come) tie Himselfe for ever to settle matters of Religion according to the purest times of the Protestant Church of *England* (with such ease for tender Consciences, as by a lawfull iudgement of the Clergie should be iudged fit) and to governe according to the known Lawes of the Land. Here is little signe of one led by evill counsaile, or of a minde that would subdue Law & Religion to the satisfaction of His private will. This shewes our Fear to be both groundles and wicked; and indeed, after this if iealousie it selfe could yet make scruple of any thing, how easie were it for the wisdome of the Bodie Representative, by preparing a Law of severitie against the instruments of innovation, exposing their persons and fortunes to certain ruine, nullifying the innovations themselves, and discharging the Subiect from all obedience and conformitie unto them, to have secured the Kingdom against all manner of fear

in that kinde, when as His Majestie freely offers His Gracious assent to any Act that should in that behalfe be necessary.

But (if what cause, what ground, what reason of dutie soever we finde, though constantly and universally received for true, both by the judgement of our Law, and by the authoritie of our Religion, we must notwithstanding reject all to believe the all concluding judgement of the Bodie Representative, whom we never knew to have such Supremacie of iudgement, till it selfe bearing witnesse of it selfe did tell us so) it cannot yet but make much to the satisfaction of the conscience, to examine how well the two Houses, now sitting, do attain the condition of a full and free Assemblie of the two Houses of Parliament, that pretend to have such iudgement.

And first it is known that the House of Commons now sitting, however elected, was never yet perfected by a right determination of Elections, but that some set as Members there that ought not to have been returned, and some are not received that yet were rightly chosen, some are excluded for having hands in Monopolies, and proiects; and others (as much interessed in them) for their assured affection reteined: the greatest part of both Houses, by meanes of popular menacings, tumults, poasting up of names, branding men with the name of Malignants, (things never known before in Parliaments) and again undeserved expellings from the House, or imprisonings, have been so over-awed, that they have been forced to suppresse their Votes, to give them contrary to their iudgements, to hide themselves, or to flie from the Houses; the residue of both Houses, (and among them the Knights and Burgesses which the Countries sent to reside in Parliament, that there the whole Representative adviſing together, might with the more safetie Vote and consent for us) they make over their Countries trust to a few Committees of their own, and wholly betake themselves to martiall Offices and imployments, exerciſing in them a new found arbitrary power over those that sent them. And then the remainder of the Peeres and Commons (which are

scarce

ſcarce a fourth part of them) call themſelves the Parliament, and all the known rights of Soveraignitie does this Epitome of Parliament aſſume unto themſelves and exerciſe; yea, the Houſe of Commons alone (notwithſtanding their Proteſtation to God for the Defence of the Lawes and Libertie of the Subject) by warrant under their Speakers hand, beyond all Law and example, impriſon Subjects, that were never Members of their Houſe, and deny them their *Habeas Corpus*. And not onely invade the Libertie of the Commons, but preſſe upon the Houſe of Lords, the voting of things which in a full Houſe they had before, upon mature advice, orderly rejected. They ſeconded a tumultuous Petition that demanded the names of the Lords that had diſſented from the Commons Houſe, though the diſſenters were the *major* part of the Houſe of Lords. This Epitome of Parliament hath taught that which never Parliament knew before, That their Members may not without the Order of their Houſe be reſtrained, no not for Treaſon. And, profeſſing tender care of the Kings Honour and ſafetie, hath authoriſed Bookes, wherein His Soveraignitie is made ſubject to the Repreſentative of His Subiects, and wherein the depoſing of our Engliſh Kings by their Subiects is declared warrantable; and upon the authoritie and warrant of this Parliament muſt the poor Chriſtian Subiect that is under their power (againſt his Conſcience) act and give aide to the Armie, which againſt the Kings expreſſe Command and Proclamations they have levied; when though conſcious horrour and ſhame will not ſuffer it to be acknowledged to be raiſed againſt the King; yet are their Souldiers ſure they ſhall meet with no other oppoſite than with their rightfull Soveraigne, and His Followers arming for the ſafetie of His Perſon, for defence of the iuſt rights of the Crown, for the due Priviledges of the firſt of the three Orders of Parliament, and for the neceſſary power wherewith He is to protect Religion, Lawes, and Subiects of His Kingdom. Who that makes conſcience of what he does, as one that muſt make account for it before the

The Book of Obſervations, *Treacherie and diſloyaltie of Papiſts*, &c.

great Tribunal (where a little integritie (though now deſpiſed) and a little innocence of cauſe ſhall bring one more ſupport than either King on the one ſide, or *Parliament* on the other, or Armie on either ſide) who (I ſay) thereof mindfull, can againſt the thouſand witneſſes of his conſcience, recede from the dutie which all his life, till now, hath both by Law and Chriſtian Religion been inculcate to him, and reiecting all, caſt himſelfe ſoule, bodie, and fortunes, wholly upon the new-found warrant of ſtrangely conditioned apparition of *Parliament*.

Theſe, and other particulars that may be inſtanced in, take off the confidence and repoſe that one would otherwiſe have in the two Houſes, eſpecially when they (ſetting on foot claimes and pretences, not agreeing with the dutie that men from their youth have found their conſciences ever bound unto) go not the faire and open way of ſatisfaction, to have in ſo high concernments the *Parliament* Rolls as freely and fully ſearched on the Kings behalfe, as on the *Parliaments*, and to have their new and ſtrange learning, as freely argued by the Kings Councell, and by the Judges, as by the inſtruments of the *Parliament*: but as the *Papacie*, in invading the Soveraignitie of the Church, Voted her ſelfe into the Supremacie, and then ſuppreſſed all examination of the Truth by damning all Writings to the contrary, and branding the Authours and uſers of them with the name of Heretickes: So we invading the Soveraignitie of our own State, Vote our ſelves into it, brand with the name of Malignants, all that concurre not with us in it, interdict them the freedome of ſearch and diſcoverie of the Truth, and damne their Writings as ſcandalous and ſeditious *Pamphlets*; and ſo making them Vote-convicted State Heretickes, We thenceforth hold no Faith nor Truth to be kept toward them, but proſecute them as Enemies to the State, for no other offence but becauſe we have made them Malignants, popiſhly affected, diſſolute, deſperate, blood-ſucking Cavaliers and plunderers.

Yet truly, if we conſider the qualitie of them that adhere unto His Maieſtie and to His Cauſe do now lie under that cenſure

ſure, we ſhall finde them the flower and greater part of our Nobilitie and Gentrie of the Kingdome, the greater part of His Majeſties Honourable Privie Counſell, yea and of His Great Councell too, even of the Peeres and Commons, the chiefe of the Judges, and with them the opinion of the reſidue even of that whole Profeſſion, the ſpirits and prayers of the farre greateſt part of the Clergie, and the hearts of the greater part of the moſt ſubſtantiall men of the Commonaltie, whoſe ſoule and conſcience, preſented with the conſideration of theſe things, would not ſhrinke with inward horrour to thinke he ſhould either attempt or give aide to the cutting off (not like *David*, of a lap of his Soveraignes ordinary garment) but of this lively apparrell-politique of his Soveraigne, wherewith for ſafetie, as well as ornament, His Majeſtie is now begirt; nay, to cut off the very limbes of his Civill bodie, and not without eminent danger to His Sacred Perſon, how loud and frightfull would the ſpirit of *David* crie in the eares of his guilty conſcience, *The Lord forbid I ſhould do this thing to lift up my hand againſt the Lords Anointed.*

O, but Religion is now at ſtake, and it is not to be believed that popiſhly affected Counſellours and Commanders with the helpe of a popiſh Armie ſhould ſo much forſake their own ends as to fight for Eſtabliſhment of the true Proteſtant Religion: truly it is ſincerely confeſſed, it is not likely, and therefore I ſhall never believe that the Deſigne of Reforming our Religion by the hands of Browniſts, Anabaptiſts, and Sectaries, (which by a conſtant and credible report, is believed to have been ſo much foſtered and advanced by the Cardinall *Richelieu* and the late French Embaſſadour, as that *Chambers* the Cardinals Secretarie was on purpoſe ſent into the *Scotiſh* Armie here in *England*) was ever with intent of Eſtabliſhing the true *Proteſtant* Religion, or that for the *Proteſtant* Religions ſake, the death of the Cardinall was by ſome of our active *Parliament* men (in our hearing) lamented as of a great friend of the *Parliament*, or that the great correſpondence and intercourſe obſerved

ſerved to be between the late French Embaſſadour and Maſter *Pym*, was for the advancement of the *Proteſtant* Religion. But where is any popiſh Armie, under the conduct of popiſh Commanders, that, according to the Deſigne of popiſh Counſellours, is likely to oppreſſe the *Proteſtants*, and advance *Poperie*? Certainly, both his Maieſtie, and his *Proteſtant* Followers are well aſſured, that not any part of the Warre is managed by the Deſigne of perſons that are ſo affected: but who knowes not the ground of calumnie? The King muſt either denie his Subiects that are *Papiſts* the protection of his Armie, and refuſe their aide and ſervice, or elſe their aide and ſervice muſt make his Armie a popiſh Armie: ſurely, not to admit them into his Armie, when they cannot otherwiſe be ſafe, were uniuſtly to deny them the protection of Subiects, and to ſpare them (either in their perſonall or pecuniarie aſſiſtance) were with inequalitie toward his *Proteſtant* Subiects, and with danger to their Cauſe, to refuſe his needfull duties from the *Papiſts*: though therefore *Proteſtants* ſhould never lay down their iealouſie of the growth of *Poperie*, yet ſhould they not let it ſo abuſe them, as to make them believe they have no danger to feare but onely *Poperie*; eſpecially now when Schiſme and Sectariſme do with ſuch authoritie invade us, and when nothing can more advance the bringing in of *Poperie*, if it be poſſible, than the confuſion in Church and State that does inevitably follow them (the expectance whereof was the cauſe that made the Cardinall and the popiſh partie from beyond ſea ſo effectually labour the promoting of them.) Undoubtedly, if *Poperie* be at this time to be feared, it is to be feared from the prevailing of Schiſmatickes by the Deſigne and manage of ſo potent and active forraigne Inſtruments of *Poperie*; and it would returne with comfortable ſatisfaction to our conſciences, that having for a feigned feare of *Poperie* engaged our ſelves in reall Rebellion, we ſhould finde our paines rewarded with the felicitie of becomming inſtruments of the evill that at ſo deare a rate we did unneceſſarily reſiſt.

When

When in every thing considerable to resolution, the conscience is on every hand so strongly beset with reasons, all concluding for obedience to our Soveraigne, and for our utmost assistance to His Cause. How weak is the sole Authoritie of an imperfect representative of Peeres and Commons, so to possesse the conscience with perswasion to the contrary, as upon it to venture the present and eternall safetie of ones selfe, and of so many thousands in our *Israel*.

But say that this world were onely to be considered in the businesse, let us yet but see what must needs be the event, in case the Parliament Forces (which God forbid) should prevaile; either they must leave the Soveraignitie in the King as it was before, and content themselves with strict Lawes against all grievances that may be feared in Religion or in Government: (and then they bring no more to passe then what His Majestie, before their Warre, did of himselfe, and does yet graciously offer) or else they must take the soveraigne power from the King into their own hands, and leave him no more (at most) than the contemptible name of King, then shall we loose our old legall Government, and be governed by the absolute arbitrary and tyrannicall way of their Votes, and they, to secure themselves in that new and uncouth way of Government that they must institute, must (to the overthrow of Trade, and intolerable burthen of the Subject) keep the Kingdome under perpetuall Garrisons; and then what with the Faction and discord of our ambitious New-States, what with the unrulinesse of the commanding Souldier, and what with the attempts of those whose fidelitie will ever excite their utmost endeavour for their Soveraignes never dying right, we shall fall into an incessant Civill Warre, (untill the Kingdome being ruined) the Soveraignitie returne into the hand to which it rightfully belongeth.

Unles therefore it please God, that our great *Metropolis* of *London* (partaking rather of the wise spirit of the men of *Abel*, than of the obstinacie of *Gibeah* the *Benjamite*) shall either deale so effectually 2 Sam. 20. 16.

effectually with those that there reside in shew of Parliament, as that they bring them to yield to the equalitie of a free and legall Parliament, and so provide against future grievances, without any violation of the Rights of the Crown: or else, (in case they refuse) shall like the *Abelites*, deliver unto the King
Judges 20 the Heads of those Opposites that rise up against Him. We may assure our selves that that Citie like those of *Gibeah* and *Benjamin*, are hardened to all our *Israels* punishment, and to their own destruction, and may (as they did) prevaile once, and again, against the residue of the Kingdome, untill they have fulfilled Gods determined Visitation upon the Land, and then consummate all with their deplorable destruction.

FINIS.

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A DISCOVERIE OF LONDONS OBSTINACIE, AND MISERIE.

THere hath been many Admonitions sent from His Majestie, advising that Citie of their own preservation, yet they have continued stubburne, though they cannot but see the hand of the Lord to assist all the King's Majesties proceedings, whereas their actions are so farre from prosperitie that they winde themselves wilfully, and force others ignorantly, into miserable adversitie.

Furthermore, *though* God hath manifestly fought *against* the Rebells *for* the *King*, giving Him Victorie in many Battailes, when all humane helpes and advantages were on the Rebells side, *though* God hath miraculously, and beyond the hope of man restored unto Him the *hearts* of the people, (which the Heads of this Rebellion by slander had stolne from Him:) *though* from small and contemptible beginnings in the eyes of

His Enemies (few or none ſtanding for Him, but God and the juſtice of His Cauſe) God hath proſpered him into many mighty Armies, which render Him formidable to the proudeſt, and ſtouteſt of the Rebels; *though* every *Victorie* hath been ſeconded by a tender of *Peace*, and with an overture of *Pacification*, ſo that as Himſelfe ſpeakes in that Declaration publiſhed *July* 30. 1643. *He could not probably fall under the ſcandalous imputation which hath uſually attended His Meſſages of Peace, that they proceed from the weakneſſe of His Power, not love of His People.* Laſtly, *though* like an indulgent Father of rebellious Children, He hath *courted* this *Citie*, and *wooed* it, by many pardons, many, and often repeated Acts of Grace and Favour to recall us to our former Loyaltie, (if ever we were Loyall) yet, inconſiderate, unthankfull wretches as we are, we over-look, or ſleight all theſe invitations, for inſtead of returning, we have added this, as the complement of our other Rebellions, that (whether more unthankfully or undutifully, I cannot tel) we have caſt dirt in our Soveraignes face, and ſlandered *the footſteps of Gods Anointed*; as if He were guiltie of all thoſe Miſeries, which at this time threaten the ſubverſion of this Nation: we will no longer wound the King *ſecretly*, through the ſides of his evill *Counſellours*, or *Cavaliers*, but charge Him *directly*, and *point blanke*, as in that moſt ſeditious Declaration, or whatever you will call it, preſented by Sir *David Watkins*, and that broken Citizen, out at elbowes, called *Satten Shute*, to the Common-Councell, and by them to the remainder of the *Lower Houſe*, if it be not breach of Priviledge to call it ſo.

How willing have we obeyed every Commandment, except God and the Kings? *How forward* have we been to employ the large Revenues of our ſeverall Companies, and Brotherhoods, (as heretofore to exceſſe, and gluttonie, ſo now) to ſupport this Rebellion? *How ready*, even beyond our abilities, have we been to ſubmit to every *Taxe*, and *illegall Impoſition*, even to the bondage & ſlaverie of *Exciſe*, by which we are not ſo much *Proprietaries* of our own, as *Stewards*, or *Caſheerers* to the heads

of

of the Rebellion, and all this, to no other end but to keep up the Rebellion: we have not onely protected, and supported the Kings *mortall Enemies*, but as much as in us lay, have perſecuted all His *Friends*, or, if but ſuſpected to ſtand well affected to Him, and the Juſtice of His Cauſe, not ſparing the effuſion of *innocent blood*, as that of Maſter *Tomkins*, and Maſter *Chaloner*, which, like the blood of *Abel*, calls loud to Heaven for vengeance, on this bloody Citie, and queſtionleſſe will in time be heard; for not content to buy theſe mens bloods with great ſummes of monies, which could not be advanced but on this condition, that Maſter *Tomkins*, and Maſter *Chaloner*, be delivered up to their pleaſure, and murthered for a ſtrange *Conſpiracie* called *Obedience* to the *King*, but being dead, in an unheard of barbarouſneſſe they preſſe into the houſes, where their dead bodies lay, before their Funerals, and thinking they could never be *ſure* enough of ſo great a *guilt*, they will not believe that they are dead, unleſſe they force the houſes to ſee the bodies of them whom themſelves had murthered; inſomuch, that to avoid further violence and rage of the Citizens, they were fain to ſet open the doores where their bodies lay, and expoſe them to the view of all, that ſo they might glut themſelves with beholding that ſad ſpectacle which themſelves had made.

That the Kings Gracious offers of Peace have been ſleighted, and rejected, with ſcorne, and contempt, and His Meſſengers that brought them (contrary to the Law of Armes and Nations) impriſoned; *That* thoſe miſerable diſtractions, which have rent and torne this flouriſhing Kingdome, are ſo farre from being cloſed, that they are rather made wider; *That* the Sword of War, ſo long devouring, is not yet ſheathed, except in one anothers bowels; *That* this Kingdome is ſtill made the Scene of Murthers, Rapines, Oppreſſion, and Plunderings, and whereon all the horrid acts of rage, and injuſtice are every day acted, and the Nation put almoſt out of hope, ever to enjoy her former Peace and Plentie, is *our* fault, and *ours* wholly: Had not the Heads of this Rebellion been animated by this Citie, and

encouraged by promises of more Supplies of Men and Monies, they had long before this laid down their Armes, and come with halters about their neckes, and cast themselves at the Kings feet, submissively begging those Pardons, which they have presumptuously rejected. Time was, when the *two Houses* gave a Law to the *Citie*, now it is come to that passe, that the *Citie* prescribe to the *Reliques* of the two Houses; They must not conclude of *War* or *Peace*, without consulting the *Citie*, if they doe, they reckon without their Host.

Nay, though *Fairfax* be utterly routed in the *North*, and *William*, once firnamed a *Conquerour*, be totally defeated in the *West*, yet can they neither be *perswaded*, nor *beaten* into thoughts of Peace. On the 20th of *July* last, no longer ago, many Thousands (as the printed paper tells you) preferred a Petition to the House of Commons, presented by M. *Norbury*, of the *Cursitors* Office, and *Iohn Hat* an Atturney of *Guild-hall*, both pernicious men, which as it evidently shewes their obstinate aversion from Peace, so it is the most desperate deviliſh slander, that ever yet durst look the world in the face; for first, they tell the House of Commons, and in them the world, *That the King without any touch of conscience, and in defiance of God, hath raised an Armie of Papists, Outlawes, and Traitors, for Robbing, Burning, Murthering, and Destroying of His Religious, Honest, and well meaning People.* And then knowing not onely their *interest in*, but their *power over* the House of Commons, they do not so much *Petition*, as *Command* them to accept of their assistance, for the raising a new Armie, and in expresse termes prescribe unto them, and limit them to a *Committee* of their own *nomination*, for the seizing and receiving of such summes, as the *willing* shall thinke fit to offer, or they shall thinke fit to extort from the *unwilling* for this service: and that you may judge of the whole bunch, by some, they name *Pennington* the pretended Lord Maior, *Stroad* one of the five Members, *Harry Martin* Plunder-master Generall, and *Denis Bond* Burgesse of *Dorchester*, and *Patriarch Whites* own disciple, a man of a double capacitie to be a Rebell,

and

and finding themselves more *alone* in these undertakings than they did imagine, like desperate Traitours, they call on the whole Kingdome, as one man, according to the intent of the late Covenant, to joyne with them in this Rebellion. And having thus taken a course to raise new Forces, on *Saturday* the 29th of *July*, at a *Common Hall*, they Voted Sir *William Waller*, *Generall* of their new intended Armie, whom to indeare the more, they interest him in the Government of the Citie, hoping that being as mad as his Ladie, he will hold up the Rebellion, as long as he can, and then be one of the last to run away; I mean not from *Battaile*, for in that he hath shewed himselfe as forward as the foremost, but from *Instice*, and the due reward of his disloyaltie. By all which it is most evident, that this *Languishing Rebellion* had before this day gasp'd its last and given up the ghost, had not this *rebellious Citie* by its *wealth* and *multitudes* fomented it, and given it life.

If therefore *Posteritie* shall aske, who broke down the bounds to those streames of blood, that have stained this earth, if they aske, who make Libertie captive, Truth criminall, Rapine just, Tyrannie and Oppression lawfull, who blanched Rebellion with the specious pretence of Defence of Lawes and Liberties: War with the desire of an established Peace, Sacriledge and prophanation, with the shew of Zeale and Reformation. Lastly, if they aske who would have pulled the Crown from the *Kings* head, taken the Government off the hindges, dissolved *Monarchie*, inslaved the *Lawes*, and ruined their *Country*, say, 'Twas the *Proud*, *Unthankfull*, *Schismaticall*, *Rebellious*, *Bloodie Citie of London*; so that what they wanted of devouring this Kingdom by *cheating* and *couzening*, they mean to finish by the Sword.

That therefore these dangerous *Desluctions*, and continuall (not small *Distillations*) but *Floods* of Men, Money, Ammunition, and Armes, descending from the *Head Citie*, and *Metropolis* of this Kingdome, may not for ever dissolve the nerves, and

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lauate the Sinewes of this admirable composed Government; it will highly concerne this Nation to look about them, to undeceive themselves, and to consult their own *Peace* and *safetie*, by joyning with their Gracious Soveraigne, in *chastizing* these rebellious insolencies, and reducing this *stubburne Citie* of *London* either to *obedience* or *ashes*.

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